

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE  
(PPA) PRODUCTS LIABILITY  
LITIGATION,

MDL NO. 1407

ORDER DENYING DEFENDANT'S  
MOTION TO DISMISS AND  
GRANTING PLAINTIFF'S  
COUNSEL'S REQUEST TO  
WITHDRAW

This document relates to:

*West v. American Home Prod-  
ucts, Inc.*, C03-3278

This matter comes before the court on two motions: defendant Wyeth's motion to dismiss for failure to comply with court-ordered discovery and plaintiff's counsel's motion to withdraw. Having considered each motion, the court finds and rules as follows.

A. Defendant's Motion to Dismiss

Defendant Wyeth filed its motion to dismiss pursuant to this court's minute order dated November 15, 2005 vacating an order to show cause why this matter should not be remanded. The minute order found, pursuant to Wyeth's representations, that outstanding discovery remained in this case, and ordered Wyeth to file a motion to dismiss for plaintiff's failure to comply with court-ordered discovery. This motion followed.

1 Wyeth argues that two outstanding pieces of discovery  
2 remain: the address of one of plaintiff's employers, and certain  
3 authorizations necessary to obtain plaintiff's Social Security  
4 records.

5 Plaintiff responds that she has in fact supplied the sought-  
6 after information regarding her employer, and based upon exhibits  
7 and deposition testimony submitted with plaintiff's response, the  
8 court finds this to be so. Defendant, in its response, essen-  
9 tially concedes this point.

10 As to the second piece of discovery, plaintiff argues that  
11 her Social Security records - in particular, her Social Security  
12 earnings and disability records - are neither relevant nor  
13 reasonably calculated to lead to the discovery of admissible  
14 evidence. Plaintiff represents that she does not intend to seek  
15 lost wages, as she was already disabled and not working at the  
16 time of her stroke. Defendant responds without elaboration that  
17 the records are relevant to her health before her stroke.

18 Defendant's position essentially concedes that the Social  
19 Security records concerning plaintiff's earnings are no longer  
20 relevant to her claim. As for the Social Security records being  
21 relevant to the state of plaintiff's health, defendant makes no  
22 argument that the disability records would be anything other than  
23 a redundant comment on plaintiff's pre-existing medical condition  
24 as determined by medical records presumably already on record. A  
25 higher showing than defendant's conclusory assertion is required.

26 Finding that the discovery sought by defendant either has

1 already been supplied, or is not relevant to plaintiff's claims  
2 or defendant's defenses, the court denies Wyeth's motion to  
3 dismiss.

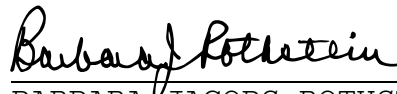
4 B. Plaintiff's Motion to Withdraw

5 Plaintiff's attorneys of record, Craig Depew, Sean Patrick  
6 Tracey and John W. Ghezzi of the law firm of Clark, Depew &  
7 Tracey, LTD, have filed a motion to withdraw their representation  
8 of plaintiff Janet Lee West. Having reviewed the motion and being  
9 fully advised, the court hereby grants counsel's request for *in*  
10 *camera* consideration. The court further orders that attorneys at  
11 the above-referenced firm, counsel of record for plaintiff, are  
12 hereby relieved of and from any further obligation to represent  
13 the interests of the plaintiff in this action, and shall no  
14 longer be counsel of record.

15 Plaintiff shall notify the court in writing of the appear-  
16 ance of new counsel, or of her intent to proceed *pro se*, within  
17 21 days of entry of this order, or, upon the motion of any party,  
18 this case shall be dismissed.

19 For the foregoing reasons, the motion to dismiss is DENIED.  
20 The motion to withdraw is GRANTED.

21 DATED at Seattle, Washington this 3rd day of March, 2006.

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24 BARBARA JACOBS ROTHSTEIN  
25 UNITED STATES DISTRICT JUDGE  
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